



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 18, 2004

Ms. Susan Kamas  
Executive Director  
Central Texas Workforce Board  
P.O. Box 450  
Belton, Texas 76513-0450

OR2004-8831

Dear Ms. Kamas:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 211191.

The Central Texas Workforce Board (the "board") received a request for the following: (1) the name or names of current operators of local workforce centers; (2) the expiration date or dates of the contract or contracts with these operators, including dates of possible extensions; and (3) the proposal or proposals submitted by the current operator or operators of the local workforce centers in response to the most recent procurement of such services. While you raise no exceptions to disclosure on behalf of the board, you indicate that release of the requested information may implicate the proprietary interests of a third party. We have considered your assertion and reviewed the submitted information.

Initially, we note that you did not submit information responsive to items one or two of the request. Thus, we presume that the board has already provided the requestor with this information to the extent that it existed when the board received the request for information. If not, then the board must do so at this time. *See* Gov't Code §§ 552.006, 552.301, 552.302; *see also* Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

In accordance with section 552.305(d), the board was required to notify interested third parties of the request and of their right to submit arguments to this office as to why their respective records should not be released. *See* Gov't Code § 552.305(d); Open Records Decision No. 542 (1990) (determining that statutory predecessor to Gov't Code § 552.305

permits governmental body to rely on interested third party to raise and explain applicability of exception to disclosure under Act in certain circumstances). An interested third party is allowed ten business days after the date of its receipt of the governmental body's notice under section 552.305(d) to submit its reasons, if any, as to why information relating to that party should be withheld from public disclosure. *See* Gov't Code § 552.305(d)(2)(B). Because this office did not receive any briefing from any interested third party, we have no basis on which to conclude that the release of this information would implicate the proprietary interest of any interested third party associated with this request. *See* Gov't Code § 552.110(b) (to prevent disclosure of commercial or financial information, party must show by specific factual or evidentiary material, not conclusory or generalized allegations, that it actually faces competition and that substantial competitive injury would likely result from disclosure); Open Records Decision Nos. 639 at 4 (1996), 552 at 5 (1990) (party must establish *prima facie* case that information is trade secret), 542 at 3 (1990).

We note, however, that the information contains a social security number. Social security numbers may be withheld in some circumstances under section 552.101 of the Government Code in conjunction with federal law.<sup>1</sup> A social security number or "related record" may be excepted from disclosure under section 552.101 in conjunction with the 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I). *See* Open Records Decision No. 622 (1994). These amendments make confidential social security numbers and related records that are obtained and maintained by a state agency or political subdivision of the state pursuant to any provision of law enacted on or after October 1, 1990. *See id.* We have no basis for concluding that the social security number in the file is confidential under section 405(c)(2)(C)(viii)(I), and therefore excepted from public disclosure under section 552.101 on the basis of that federal provision. We caution, however, that section 552.352 of the Act imposes criminal penalties for the release of confidential information. Prior to releasing any social security number information, you should ensure that no such information was obtained or is maintained by the board pursuant to any provision of law, enacted on or after October 1, 1990.

In summary, the social security number may be confidential under federal law. All remaining submitted information must be released to the requestor.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the

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<sup>1</sup>Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Cary Grace", with a long horizontal line extending to the right.

Cary Grace  
Assistant Attorney General  
Open Records Division

Ref: ID# 211191

Enc. Submitted documents

c: Ms. Misty Clark  
Texas Neighborhood Services  
314 NW 4th Street  
Mineral Wells, Texas 76067  
(w/o enclosures)